

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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RODOLFO MONTER HERNANDEZ,

Plaintiff,

-against-

**99 THAI PLAYGROUND LLC d/b/a THAIMEE
TABLE, et al.,**

Defendants.

19-CV-01257 (ALC)(SN)

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

ANDREW L. CARTER, JR., District Judge:

On January 27, 2021, I entered a Default Judgment in this matter against 99 Thai Playground LLC, Inspired Hospitality Management LLC, and Ngam Thaimée. ECF No. 115. This matter was then referred to United States Magistrate Judge Sarah Netburn for an inquest after default/damages hearing. ECF No. 116. The Court now considers the Report and Recommendation issued by Magistrate Judge Netburn on November 28, 2022, finding the corporate defendants 99 Thai Playground LLC and Inspired Hospitality Management LLC, and individual defendant Ngam Thaimée (the “Defaulting Defendants”) liable for \$301,907.38 plus applicable pre- and post-judgment interest. ECF No. 147.

Despite notification of the right to object to the Report and Recommendation, the Defaulting Defendants have filed no objections. Where no timely objections are made, the Court may adopt the Report and Recommendation as long as there is no clear error on the face of the record. *Sacks v. Gandhi Eng’g, Inc.*, 999 F. Supp. 2d 629, 632 (S.D.N.Y. 2014) (citing *Wilds v. United Parcel Serv.*, 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003)). In light of the lack of any

objections to the Report and Recommendation and the fact that Court finds no clear error in the record, the Court adopts the Report and Recommendation in its entirety.

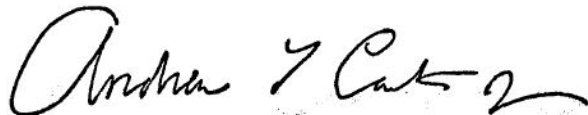
For the reasons stated in the Report and Recommendation at ECF No. 147, the Court finds the Defaulting Defendants jointly and severally liable for \$301,907.38, plus applicable pre- and post-judgment interest, identified as follows:

- (1) \$144,861.39 in wage-and-hour damages, plus 9 percent prejudgment simple interest, calculated from February 5, 2016, to the date of judgment¹;
- (2) \$144,861.39 in liquidated damages;
- (3) \$11,230 in attorneys' fees; and
- (4) \$954.60 in costs.

Post-judgment interest shall be calculated from the day the Clerk of Court enters judgment until the date of payment by the Defaulting Defendants, using the federal interest rate set forth in 28 U.S.C. § 1961. The Clerk of Court is respectfully directed to enter judgment and close the case.

SO ORDERED.

Dated: New York, New York
January 31, 2023



ANDREW L. CARTER, JR.
United States District Judge

¹ New York Labor Law provides for an award of prejudgment interest in addition to liquidated damages. N.Y. Lab. Law § 198(1-a); *Underwood v. TAFSC Hous. Dev. Fund Corp.*, No. 18-cv-6664 (JPO), 2019 WL 5485211, at *5 (S.D.N.Y. Oct. 25, 2019) (citing *Reilly v. Natwest Mkts. Grp. Inc.*, 181 F.3d 253, 265 (2d Cir. 1999)). Prejudgment interest is available only on actual damages, not liquidated damages. *Id.* This prejudgment interest shall be calculated at the statutory rate of nine percent per year (N.Y. CPLR § 5004), starting from February 5, 2016 to the date of entry of judgment.